

TITLE VIII

HOUSING: LANDLORD TENANT

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CHAPTER 1. LANDLORDS—TENANTS**Section 8-1-1. Authority.**

Landlords, including the Pueblo of Laguna Housing Development and Management Enterprise ("LHDME"), are hereby granted and given the power and authority to institute the following types of cases in the Pueblo Court:

- A. To collect delinquent rents from tenants of the landlords.
- B. To eject tenants who are delinquent in rent or who are in default in the terms of their agreement with the landlord.
- C. To enforce landlord liens with respect to tenants who are delinquent in the payment of rents.

Section 8-1-2. Pueblo jurisdiction.

The Pueblo Court is hereby granted jurisdiction to hear and determine all cases brought pursuant to this chapter.

Section 8-1-3. Commencement of action and notice.

A. All cases brought pursuant to this chapter for the collection of rent shall commence with the filing of a verified complaint, duly executed by the landlord or his agent, which complaint shall set forth the name of the tenant, the amount of the monthly rental, and the amount of the rental delinquency and the period of time for which the delinquency exists.

B. No case in which the landlord seeks to eject a tenant from the premises occupied by said tenant shall be filed unless at least three (3) days prior to said filing, landlord shall have given written notice, which notice shall set forth the reason for the ejectment, and if rent be delinquent, the amount of the delinquency and the period of time for which the delinquency exists. If all delinquent rents are paid within the period of the notice and no other cause for ejectment then exists, the said rental payment shall abate further action on said delinquency.

Section 8-1-4. Liens and foreclosure.

A. It is hereby declared the policy of the Pueblo of Laguna Council that landlords shall have a possessory landlord lien over the personal property of any tenant located on the premises occupied by such tenant to secure the prompt payment of rentals to the landlord. No such personal property shall be removed from the said premises, without the consent of the landlord, until such time as all rents are paid.

B. Landlords shall have the power to foreclose such liens in the Pueblo Court. The complaint in all foreclosure cases shall comply with the requirements of section 8-1-3 and in addition thereto the complaint shall ask the court to issue a notice of sale of the property of the tenant in possession of the landlord. The court, after hearing and upon a finding that the tenant is indebted to the landlord and that such lien should be foreclosed, shall order that a notice of sale be posted in a public place in each of the Villages of the Pueblo of Laguna for

fifteen (15) days, and published in two (2) consecutive issues of the Pueblo newspaper. The notice of sale shall set forth the name and last known address of the tenant, the nature of the case, the amount of the indebtedness, a list of the personal property subject to the lien of the landlord, the time and place of the sale, together with a statement that unless the delinquency due to the landlord is paid by the time of sale, such property will be sold to the highest bidder at such sale. A copy of said notice shall be served upon the tenant if he resides or can otherwise be found within the Reservation, otherwise it shall be mailed to his last known address.

- (1) The sale shall be held at the time and place specified by the notice, but in no event earlier than twenty (20) days from the date the notice is first published. The clerk of the court, or some other responsible adult person named by the court, shall conduct the sale. Upon holding the sale, the clerk or some other person named by the court shall report to the court the result of the sale, the purchaser of said property and proposed distribution of the proceeds, which, if satisfactory to the court, shall be confirmed, and distributing of the proceeds made as directed by the court.
- (2) The proceeds of any sale held pursuant to this section shall be applied first to the costs of publication and sale, secondly to satisfy the debt to the landlord and the residue, if any, shall be refunded to the tenant.

Section 8-1-5. Court process and procedure.

All matters of procedure, applicable law and appeals not specifically covered herein shall be governed by the applicable provisions of the Pueblo of Laguna Code.

CHAPTER 2. LEASEHOLD MORTGAGING

Section 8-2-1. Purpose.

The purpose of this chapter is to assist members of the Pueblo of Laguna in obtaining mortgage financing; (a) for the construction, renovation or purchase of one- to four-family owner-occupied principal residences; (b) for agricultural ventures; or (c) for business ventures, on certain leasehold estates. In furtherance of such purpose, this chapter prescribes procedures relating to recordation, foreclosure and evictions in connection with leasehold mortgages given to secure loans made by mortgagees pursuant to any federal, state, Tribal, or Tribally-approved governmental loan program, or any private-sector commercial loan program, or any secondary-mortgage-market program of the Federal National Mortgage Association (Fannie Mae), the Federal Home Loan Mortgage Corporation (Freddie Mac), the Government National Mortgage Association (Ginnie Mae), the New Mexico Mortgage Finance Authority, or any other secondary-mortgage-market program approved by the Pueblo.

Section 8-2-2. Definitions.

In this chapter, unless the context requires otherwise, words in the singular number include the plural and vice versa; words in the masculine gender include the feminine gender and the neuter; and when appropriate words in the neuter may refer to either gender. As used in this chapter:

Default shall have the meaning set forth in the applicable Pueblo of Laguna residential ground lease and in the pertinent leasehold mortgage.

Lease shall mean the residential ground lease or other agreement for use of Pueblo Lands on which a leasehold mortgage has been applied for, or has been or will be given.

Leasehold estate shall mean an interest in land established pursuant to a lease between the Pueblo, as lessor, and a member of the Pueblo, as lessee.

Leasehold mortgage shall mean the first-lien mortgage of a leasehold estate given to secure a mortgage loan made by a mortgagee pursuant to any program referred to in chapter 1, section 1 hereof.

Leasehold mortgage foreclosure proceeding shall mean a proceeding in the Pueblo Court; (i) to foreclose the interest of the mortgagor, and each person or entity claiming through the mortgagor, in a leasehold estate on which a leasehold mortgage has been made by the mortgagee pursuant to any program referred to in section 8-2-1 hereof; or (ii) to assign such leasehold estate to the mortgagee.

Lessee shall mean any member who enters into a lease with lessor.

Lessor shall mean the Pueblo. The Pueblo is the beneficial or equitable owner of certain Pueblo Lands underlying leasehold estates on which leasehold mortgages will be given to accomplish the purpose of this chapter.

Member shall mean a regularly enrolled member of the Pueblo of Laguna or businesses licensed by the Pueblo of Laguna to enrolled members or Tribally-owned corporations or enterprises.

Memorandum of understanding shall mean an agreement by and between a mortgagee and the Pueblo that is made to accomplish the purpose of this chapter.

Mortgage investor shall mean Fannie Mae, Freddie Mac, Ginnie Mae, the New Mexico Mortgage Finance Authority, or any other entity, that purchases first-lien leasehold mortgage loans from mortgagees.

Mortgagee shall mean any lender under any leasehold mortgage, or any successors or assigns of such lender. This definition also includes, without any consent by the Pueblo or Fannie Mae, any subsequent holder, whether by assignment, succession, or otherwise, of the original mortgagee's right, title or interest in and to the leasehold mortgage or the leasehold estate, together with the improvements.

Mortgagor shall mean any member of the Pueblo who has executed a leasehold mortgage including any heirs, successors, executors, administrators or assigns of such member.

Nuisance shall mean maintenance on the leasehold estate of a condition that:

- (1) Unreasonably threatens the health or safety of the public or neighboring land users; or
- (2) Unreasonably and substantially interferes with the ability of neighboring real property users to enjoy the reasonable use and occupancy of their property.

Order of repossession shall mean an order of the Pueblo Court:

- (1) Restoring the lessor, a sublessor, or a mortgagee to possession of a leasehold estate subject to a leasehold mortgage; and
- (2) Evicting a lessee, sublessee, or other occupant under color of law from such property.

Pueblo or Tribe shall mean the Pueblo of Laguna.

Pueblo Court shall mean the Pueblo of Laguna Court.

Pueblo Lands or Reservation means all lands subject to the jurisdiction of the Pueblo, including all land held by the United States in trust for Laguna Pueblo and all lands within the exterior boundaries of the Pueblo of Laguna Reservation or Pueblo grant, regardless of whether the lands are owned in fee, held in trust by the United States for the Pueblo, or otherwise held.

Pueblo Recording Clerk shall mean the person designated by the Pueblo to perform the recording functions required by this chapter or any deputy or designee of such person.

Record owner shall mean any person who has an ownership interest in the leasehold estate, which interest is reflected in the appropriate office for recording leases and leasehold mortgages as provided herein.

Sublessee shall mean any person who enters into a Pueblo-authorized sublease of a leasehold estate with a sublessor.

Sublessor shall mean a lessee or mortgagee that subleases a leasehold estate.

Subordinate lienholder shall mean the holder of any lien, including a mortgage, perfected subsequent to the recording of a leasehold mortgage under this chapter; provided, however, such terms shall not include the Pueblo with respect to a claim for a Pueblo tax or assessment.

Tri-partite agreement shall mean any agreement by and among; (1) a mortgagee; (2) the Pueblo; and (3) a mortgage investor that is made to accomplish the purpose of this chapter by facilitating the purchase of certain first-lien leasehold mortgage loans.

Unlawful detainer action shall mean a suit brought before the Pueblo Court to terminate a lessee's or sublessee's interest in a leasehold estate or to evict any person from occupancy of such leasehold estate.

Waste shall mean the destruction of land, buildings, gardens, trees or other improvements on the leasehold estate that results in substantial injury to the lessor's interest in the leasehold estate.

Section 8-2-3. Per capita distributions excluded.

Mortgagees shall exclude per capita distributions from computations of family income when processing loan applications.

Section 8-2-4. All approvals to be executed at or before closing.

Without exception, all documents requiring written approval of any party or governmental entity shall be executed either at or before closing.

Section 8-2-5. Closings to occur in Laguna.

Unless otherwise agreed by the parties, all loan closings made pursuant to this chapter shall occur on the Reservation (New Mexico), provided; however; that any loan closings occurring off the Reservation shall be deemed to have occurred on the Reservation.

Section 8-2-6. Title insurance.

Title insurance shall be required on a leasehold estate that is subject to a leasehold mortgage given pursuant to this Leasehold Mortgaging Code if such insurance is required by the pertinent governmental loan program, private-sector commercial loan program, or secondary-mortgage-market program.

Section 8-2-7. Notice to nonmember co-applicants for a mortgage loan; conclusive statutory presumption.

Under the HUD Section 184 Indian Housing Loan Guarantee Program, mortgage lenders may use the income and credit qualifications of a nonmember who applies for a mortgage loan as a co-applicant with a member only if the nonmember is on notice of any restrictions on his property finds under Pueblo law. Therefore, nonmember co-applicants are hereby notified that such restrictions may exist under the Pueblo law of survivorship or domestic relations as amended from time to time, or under other Pueblo law enacted after the effective date of this chapter. Accordingly, there shall be a conclusive statutory presumption in all pertinent judicial or other proceedings arising under Pueblo law or other applicable law that nonmember co-applicants have informed themselves of any such restrictions before applying for a mortgage loan under the HUD Section 184 Indian Housing Loan Guarantee Program, or under any other mortgage loan program that has a similar notice requirement.

Section 8-2-8. Leasehold mortgaging of Pueblo Lands.

A. *Priority.* A leasehold mortgage recorded in accordance with the procedures set forth in this chapter shall have priority over any lien not perfected at the time of such recording and any subsequent lien or claim (except a lien or claim arising from a Pueblo tax assessed against a leasehold estate subject to the leasehold mortgage).

B. Recording.

- (1) The Pueblo Recording Clerk shall maintain in the Pueblo Recorder's Office, a system for recording leasehold mortgages and such other documents as the Pueblo may designate by law or resolution including, without limitation, the lease.
- (2) The appropriate office for recording leases and leasehold mortgages is the Pueblo Recorder's Office. The Pueblo acknowledges and agrees that the mortgagee and certain mortgage investors may require that the leases and leasehold mortgages be recorded also in the Bureau of Indian Affairs Area Land Titles and Records Office in Albuquerque, New Mexico, and the recorder's office in either Bernalillo County, Cibola County, Sandoval County or Valencia County, New Mexico, as appropriate.
- (3) The Pueblo Recording Clerk shall endorse upon any lease and leasehold mortgage or other document received for recording the following:
 - (a) The date and time of receipt of the lease and the leasehold mortgage or other document;
 - (b) The filing number, to be assigned by the Pueblo Recording Clerk, which shall be a unique number for each lease and leasehold mortgage or other document received;
 - (c) The name of the Pueblo Recording Clerk receiving the lease and leasehold mortgage or other document; and
 - (d) The name and address of the party requesting the filing.
- (4) Upon completion of the above endorsements, the Pueblo Recording Clerk shall make true and correct copies of the lease and leasehold mortgage or other security instrument and shall certify the copy as a true and correct copy. A sample form is attached to this chapter. The Pueblo Recording Clerk shall maintain such copies in the records of the recording system and shall return the original lease and leasehold mortgage or other document to the person or entity that presented same for recording.
- (5) The Pueblo Recording Clerk also shall maintain a log of each lease and leasehold mortgage or other recorded document in which there shall be entered the following:
 - (a) The name of all mortgagors of each leasehold mortgage, identified as such;
 - (b) The name of all mortgagees of each leasehold mortgage, identified as such;
 - (c) The name of all grantors, grantees or other designation of each party, named in any other documents including the lease;
 - (d) The date and time of receipt;
 - (e) The filing numbers assigned by the Pueblo Recording Clerk; and
 - (f) The name of the Pueblo Recording Clerk receiving the lease, leasehold mortgage, or other document.

- (6) The certified copies of the leases and leasehold mortgages and other documents and the log maintained by the Pueblo Recording Clerk shall be made available for public inspection and copying at customary, office hours, with the cost of copying to be paid by the person requesting copies.

Section 8-2-9. Avoiding or curing defaults; avoiding foreclosures.

In light of the acute shortage of adequate housing on the Reservation, and thus the lack of alternate on-Reservation housing for members of the Pueblo and their families in the event of an eviction:

- A. All mortgagors shall exhaust all reasonable possibilities of avoiding or curing a default under a leasehold mortgage, including, but not limited to full cooperation with and participation in an applicable mortgagor counseling program or foreclosure avoidance program, as appropriate;
- B. Before the expiration of any applicable cure periods under a leasehold mortgage, all mortgagees and mortgage investors shall exhaust all reasonable possibilities of collection, including, but not limited to full cooperation with and participation in an applicable mortgagor counseling program or foreclosure avoidance program, as appropriate; and
- C. Before the expiration of any applicable cure periods under a leasehold mortgage, if the mortgagors, mortgagees, and mortgage investors have entered into a cure agreement they shall have the right to file such cure agreement with the Pueblo Court, which shall have the authority to enter an order enforcing the agreement. Cure agreements may provide for an equitable resolution of the default, including, but not limited to garnishment, establishing a payment schedule, or evicting a mortgagor.

Section 8-2-10. Leasehold mortgage foreclosure proceedings.

The Pueblo Court shall have exclusive jurisdiction over leasehold mortgage foreclosure proceedings. After: (a) Default by mortgagors; and (b) the expiration of any applicable cure periods under a leasehold mortgage, the mortgagee may commence a leasehold mortgage foreclosure proceeding in the Pueblo Court as follows:

- A. *By filing a verified complaint:*
 - (1) Citing facts alleging jurisdiction of the Pueblo Court;
 - (2) Certifying that the mortgagor and the mortgagee have complied with section 8-2-9 of this Leasehold Mortgaging Code;
 - (3) Naming as defendants the mortgagors and each subordinate lienholder of which the mortgagee has record notice (except the Pueblo with respect to a claim for a Pueblo tax on the leasehold estate subject to the leasehold mortgage);
 - (4) Describing the leasehold estate subject to the leasehold mortgage;

- (5) Stating the facts concerning; (i) the execution of the lease and the leasehold mortgage; (ii) the recording of tile leasehold mortgage; and (iii) the alleged default of the mortgagors (and any other facts as may be necessary to constitute a cause of action);
 - (6) Appending as exhibits true and correct copies of each promissory note, lease, leasehold mortgage, and, if applicable, assignment thereof relating to such leasehold estate;
 - (7) Including an allegation that all relevant requirements and conditions prescribed in the loan documents, the lease, the tri-partite agreement or memorandum of understanding (as applicable), or in any applicable laws and regulations, have been complied with by the mortgagee; and
 - (8) Otherwise satisfying the requirements of the Pueblo Court.
- B. *By obtaining a summons*, issued as in other cases, requiring the mortgagors and each other person or entity claiming through the mortgagor, to file a response to the complaint within thirty (30) days of the date of the summons, and by filing a copy of such summons with the Pueblo Court.
- C. *Service of process and procedures*. The laws of the Pueblo governing service of process and all other matters relating to the conduct of Pueblo Court proceedings shall apply to any leasehold mortgage foreclosure proceeding pursuant to this chapter. The Governor of the Pueblo or his designee, shall be provided a copy of all summons and complaints in all foreclosure proceedings no later than the next business day following the date such documents were served on defendants.
- D. *Cure of default by subordinate lienholder; Pueblo's right of first refusal*.
- (1) Prior to the entry of a judgment of foreclosure of a leasehold mortgage pursuant to this chapter, any mortgagor or any subordinate lienholder may cure any defaults under the leasehold mortgage. Any subordinate lienholder who has cured a default shall thereafter have included in its lien the amount of all payments made by such subordinate lienholder to cure same, plus interest on such amounts at the rate stated in the promissory note evidencing the subordinate lien.
 - (2) Subsequent to lessee's breach of any covenant or agreement under a leasehold mortgage or other security instrument for which the lease or any improvement on the leasehold estate are pledged as security, and upon the expiration of any applicable cure period provided lessee therein, the lessor shall have the right of first refusal to acquire the lessee's leasehold estate (subject to all valid liens and encumbrances) upon either payment in full of all sums secured by the leasehold mortgage or assumption of the loan evidenced by the note and leasehold mortgage and execution of an assumption agreement acceptable in all respects to the lender. Such assumption agreement shall include, without limitation, a limited waiver of sovereign immunity, duly authorized by the lessor, with respect to any

action to collect any or all sums due or obligations owed by the lessor to the lender pursuant to the assumption, or to enforce any of the lender's other rights or remedies in connection with the assumption. This right of first refusal may be exercised at any time within thirty (30) days of the date of the lender's written notice to the lessor of the lessee's failure to cure the default in accordance with the terms of the lender's acceleration notice to the lessee under the leasehold mortgage or other security instrument requiring the lessee to pay all sums secured by the leasehold mortgage, which notice shall be given before the lender or successor invokes any other remedies provided under the leasehold mortgage or by law. This right of first refusal shall be exercised by notice in writing from the lessor to the lessee and the lender. The lessor's right of first refusal for purposes of loan assumption shall be exercised solely for the purpose of providing an owner-occupied principal residence on the leasehold estate for members. Notwithstanding the lessor's right of first refusal to acquire the lessee's interest in the leasehold estate, such right of first refusal shall be subject to any right the lessee may have under the leasehold mortgage or by law to reinstatement after the acceleration, and the right to bring a court action to assert the nonexistence of a default or any other defense to acceleration and sale or foreclosure.

- E. *Power of the Pueblo Court.* If the alleged defaults have not been cured, and if the Pueblo Court should find for the mortgagee at a pretrial proceeding or at trial, the Pueblo Court shall enter judgment:
- (1) Foreclosing the leasehold estate of the mortgagors and each other defendant named in the complaint upon whom proper and timely service has been made, including each subordinate lienholder; and
 - (2) Assigning such leasehold estate to the mortgagee.

Section 8-2-11. Leasehold mortgage eviction procedures.

A. *Jurisdiction.* The provisions of this chapter shall apply to all persons and property subject to the governing authority of the Pueblo as established by the Pueblo Constitution, Pueblo Code, or applicable federal law.

B. *Unlawful detainer.* A lessee, sublessee, or other occupant of a leasehold estate subject to a leasehold mortgage shall be guilty of unlawful detainer if such person shall continue in occupancy of such leasehold estate under any of the following situations:

- (1) Without the requirement of any notice by the lessor:
 - (a) After the expiration of the term of the lease or other written agreement; or
 - (b) If such person has entered onto or remains on the real property of another without the permission of the lessee or sublessee and without having any substantial claim under a lease or other written agreement, or title to such property; or

- (c) After the lessor has terminated such person's tenancy pursuant to procedures providing such person a hearing before such lessor; or
 - (d) After LHDME or other public housing authority has terminated such person's tenancy pursuant to procedures providing such person a hearing before the appropriate housing authority; or
 - (e) After such person's leasehold estate has been foreclosed in a leasehold mortgage foreclosure proceeding in the Pueblo Court.
- (2) After having received thirty (30) days' notice, the lessee, sublessee or other occupant shall remain in possession of such property contrary to the terms of the notice as follows:
- (a) When such person has received notice that he; (i) is in default in leasehold mortgage or rent payments, as appropriate; and (ii) is required either to make such payments current or to surrender possession of the property within thirty (30) days of the date the notice was received, and such person fails to meet either requirement; or
 - (b) When fine sublease of the property, is for an indefinite time, with rent to be paid monthly or on some other periodic basis, and the sublessee has received notice of termination of the tenancy at least thirty (30) days prior to the end of such month or other period; or
 - (c) When such person shall continue to violate any condition or covenant of a sublease or other use agreement under which the property is held after he has been given notice to comply with same or else or surrender the property; or
 - (d) When such person continues to commit or allow waste or to maintain a nuisance upon the property after having been given notice either to cease such waste or nuisance or else to surrender the property.

C. Procedures for service of notice. Notices required or authorized in the immediately preceding section shall be given in writing either by:

- (1) Delivering a copy personally to the lessee and, if applicable, to the sublessee or to any other occupant under color of law, or to any adult member of his or her family residing on the leasehold estate; or
- (2) Posting said notice in a conspicuous place near the entrance to said leasehold estate, and sending an additional copy to the lessee and, if applicable, to the sublessee or to any other occupant under color of law, by certified mail, return receipt requested, properly addressed, postage prepaid.
- (3) Proof of service may be made by affidavit of any adult person stating that he has complied with the requirements of one (1) of the above methods of service.

D. *Complaint and summons.* The lessor, lessee, or mortgagee, as appropriate, shall commence an action for unlawful detainer by filing with the Pueblo Court, in writing, the following documents:

- (1) A complaint, signed by the lessor, lessee, or mortgagee, or an agent or attorney on their behalf:
 - (a) Citing facts alleging jurisdiction of the Pueblo Court;
 - (b) Naming as defendants the mortgagors and any other record owner (including sublessees and subordinate lienholders), of which the complainant has record notice (except the Pueblo with respect to a claim for a Pueblo tax on the leasehold estate subject to the leasehold mortgage);
 - (c) Describing the leasehold estate subject to the leasehold mortgage;
 - (d) Stating the facts concerning; (i) the execution of the lease and the leasehold mortgage; (ii) the recording of the leasehold mortgage; and (iii) the facts upon which he seeks to recover;
 - (e) Stating any claim for damages or compensation due from the persons to be evicted; and
 - (f) Otherwise satisfying the requirements of the Pueblo Court.
- (2) A copy of the summons, issued in accordance with established Pueblo Court rules and procedures, requiring the defendants to file a response to the complaint by the date specified in the summons. The deadline specified in the summons for filing a response shall be no less than six (6), nor more than thirty (30) days from the date of service of the summons and complaint. The summons shall notify the defendants that judgment will be taken against them in accordance with the terms of the complaint unless they file a response with the court by the date specified in the summons.

E. *Service of summons and complaint.* A copy of the summons and complaint shall be served upon the defendants in the manner provided by the Pueblo Court rules for service of process in civil matters. In the absence of such Pueblo Court rules, the summons and complaint shall be served by one (1) of the two (2) methods described in subsection 8-2-11C. hereof.

F. *Power of the Pueblo Court.* The Pueblo Court shall enter an order of repossession if:

- (1) Notice of suit is given by service of summons and complaint in accordance with the procedures provided herein; and
- (2) The Pueblo Court shall find during pretrial proceedings or at trial that the lessee, sublessee, or other occupant under color of law of the leasehold estate subject to the leasehold mortgage is guilty of an act of unlawful detainer. Upon issuance of an order of repossession, the Pueblo Court shall have the authority to enter a judgment against the defendants for the following, as appropriate; (i) back rent, unpaid utilities, and any charges due the Pueblo, LHDME, other Public Housing Authority, or sublessor under any sublease or other written agreement (except for a leasehold mortgage); (ii) any and all amounts secured by the leasehold mortgage that are due the mortgagee; and (iii)

damages to the property caused by the defendants, other than ordinary wear and tear. The Pueblo Court shall have the authority to award to the prevailing party its costs and reasonable attorney's fees in bringing suit.

G. *Enforcement.* Upon issuance of an order of repossession by the Pueblo Court, Pueblo Law Enforcement Officers shall help plaintiffs enforce same by evicting the defendants and their property from the unlawfully occupied leasehold estate. In all cases involving the mortgagee, the order of repossession shall be enforced no later than forty-five (45) days after a pretrial proceeding or trial in which the Pueblo Court finds against defendants, subject to chapter 3, section 8 below, and provided, that no party, exercised the right to cure a default or right of first refusal as described in chapter 2 above.

H. *Continuances in cases involving the mortgagee.* Except by agreement of all parties, there shall be no continuances in cases involving the mortgagee that will interfere with the requirement that the order of repossession be enforced not later than forty-five (45) days after a pretrial proceeding or trial in which the Pueblo Court finds against defendants, subject to the sound discretion of the court.

Section 8-2-12. Limited waiver of immunity.

The Pueblo hereby authorizes a limited waiver of immunity from suit with respect to the specific controversies or claims described in this section that may arise out of or relate to the Pueblo's obligations ("obligations") under a tri-partite agreement, memorandum of understanding, or lease (hereafter collectively referred to in this section as the "documents" entered into by the Pueblo to accomplish the purposes of this Leasehold Mortgaging Code. In connection with such limited waiver, the Pueblo consents to the jurisdiction of the Pueblo Court with respect to; (a) actions in equity brought by a party, to any of the documents seeking specific performance of any of the Pueblo's express obligations under such documents; and (b) actions at law for actual damages, which shall consist exclusively of all sums secured by any and all outstanding leasehold mortgages hereunder. This waiver of immunity is not intended, nor shall it be construed to; (a) extend to any claim for punitive damages; (b) waive the Pueblo's immunity from suit for any other purpose or with respect to any controversy, claim, or other matter not specifically mentioned in this section; or (c) extend to the benefit of any person other than the parties to the documents or their successors or assigns. This waiver of immunity from suit shall not be construed as an admission of liability by the Pueblo as to any claim for damages or as an agreement or willingness to pay any amount as damages absent a judicial determination of liability, and the Pueblo shall have the right to defend any such claim fully on the merits.

HOUSING: LANDLORD TENANT

TITLE VIII HISTORY

Title VIII, Chapter 1, Landlords—Tenants, was enacted by Ordinance on October 9, 1968.

The Ordinance reads as follows:

WHEREAS, the Pueblo of Laguna Housing Authority and other persons who rent property to tenants, hereinafter called landlords, need the legal power to enforce the collection of rents from its tenants who are delinquent in rental payments; to eject certain tenants from the premises they occupy inside the public housing areas on the Laguna Reservation; and to enforce landlord liens against certain delinquent tenants; and

WHEREAS, the Pueblo of Laguna Council has determined that the Pueblo of Laguna Housing Authority and other landlords should have the legal powers set forth above; and

WHEREAS, the Pueblo of Laguna Court should be given jurisdiction to hear and determine cases brought by landlords concerning delinquent rent collections, ejectments and landlord lien enforcement.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED AS FOLLOWS: [TEXT OF ORDINANCE]

Title VIII, Chapter 2, Leasehold Mortgaging, was enacted by Ordinance No. 200-94 and adopted by Resolution No. 51-94 on November 15, 1994. Ordinance 200-94 was superceded by Resolution No. 56-96 on December 3, 1996.

Ordinance No. 200-94 reads as follows:

At a duly called meeting of the Laguna Tribal Council held on the 15th day of November 1994, the following ordinance was adopted: [TEXT OF ORDINANCE]

Resolution No. 51-94 reads as follows:

WHEREAS, the Pueblo of Laguna finds it is in the best interest of the Pueblo and its members to allow Tribal members to secure mortgages for the construction, purchase, or renovation of homes on Pueblo Trust Lands; and

WHEREAS, there are governmental and commercial loan programs which allow for the mortgaging of leasehold interests in trust property; and

WHEREAS, the Pueblo of Laguna presently assigns Tribal Trust Land to members for home sites through the Mayordomo and village staff officers.

NOW, THEREFORE, BE IT RESOLVED as follows:

1. The Pueblo of Laguna Tribal Council authorizes the leasing of Tribal Trust Land to members to secure mortgages for the purchase, construction or renovation of Tribal members' homes.
2. Tribal members must first obtain an assignment of land for a residence through the Mayordomo and village officers as is customary pursuant to our land assignment ordinance.

PUEBLO OF LAGUNA CODE

3. After a member has received a land assignment, he/she shall then present a request in writing to the Tribal Secretary for a lease of the assignment. The request for a lease shall state the following:
 - a. The name of the member requesting a lease;
 - b. A description of the parcel to be leased;
 - c. The mortgage program for which the member is seeking a leasehold mortgage;
 - d. The number of years required for the lease;
 - e. Verification that the parcel has been assigned to the member.
4. The Tribal Secretary shall present the member's requested lease to the Tribal Council for approval in a form attached to this Resolution as Exhibit "A."
5. The Tribal Council shall authorize a lease for a term(s) of years necessary to qualify for a mortgage but, in no event, for more than two (2), 25-year terms.
6. The Tribal Secretary or a person designated by him shall maintain a log of all Tribal leases issued under this Resolution. The Tribal Secretary shall also forward a copy of the lease to the Mayordomo of the respective village.

Resolution No. 56-96 reads as follows:

WHEREAS, there exists a housing shortage on the Pueblo of Laguna and many Pueblo members with housing desire to improve their homes; and

WHEREAS, for many years banks and mortgage financing institutions were unwilling to lend to Pueblo members to renovate or purchase homes because of misunderstandings about Indian law and the lack of the legal infrastructure necessary to record and enforce mortgages on the Pueblo; and

WHEREAS, the federal government and private institutions have instituted various programs to spur private lending on Indian Reservations; and

WHEREAS, the Pueblo of Laguna wishes to assist members of the Pueblo in obtaining financing for the (a) construction, renovation, or purchase of one- to four-family owner-occupied principal residences, (b) for agricultural ventures, or (c) for business ventures; and

WHEREAS, the Pueblo is willing to enter into Tri-Partite Agreements with the Federal National Mortgage Association (FANNIE MAE), and home mortgage lenders willing to provide home mortgages to Pueblo members on residential leasehold estates within the Pueblo of Laguna Reservation; and

WHEREAS, the Pueblo desires to establish the legal framework to allow Pueblo members to secure mortgages on leasehold estates and to provide for the proper recordation of encumbrances on leasehold estates, procedures for foreclosing and reselling mortgages and orderly eviction procedures.

NOW THEREFORE BE IT RESOLVED, that the Pueblo of Laguna, through its duly authorized Pueblo Council, enacts the attached Pueblo of Laguna Leasehold Mortgaging Code.

HOUSING: LANDLORD TENANT

BE IT FURTHER RESOLVED, that all mortgages on residential leasehold estates on Pueblo of Laguna Lands must contain the attached Pueblo of Laguna Housing Security Instrument Rider approved this day by the Pueblo of Laguna, through its duly authorized Pueblo Council.

BE IT FURTHER RESOLVED, that any fixed rate note secured by a Residential Leasehold Mortgage on Pueblo of Laguna Lands must contain the attached Pueblo of Laguna Housing Addendum To Fixed Rate Note approved this day by the Pueblo of Laguna, its duly authorized Pueblo Council.

BE IT FURTHER RESOLVED, that the Pueblo of Laguna, through its duly authorized Pueblo Council, adopts the attached Pueblo of Laguna Residential Ground Lease for use in providing leasehold estates for residential purposes to members of the Pueblo of Laguna. To secure a lease, Tribal members must follow the procedures set forth in Resolution 51-94 adopted on November 15, 1994, provided however that from this date forward the leases must be presented to Council for approval using the attached Ground Lease.

BE IT FURTHER RESOLVED, that the enactment of the attached Mortgage Ordinance on this date shall supersede from this date forward the Mortgage Ordinance enacted on November 15, 1994. However, nothing in today's actions shall be interpreted to affect the rights and responsibilities of mortgagors or mortgagees in any manner or action presently proceeding under the November 15, 1994 Mortgage Ordinance.

BE IT FURTHER RESOLVED that the Pueblo of Laguna authorizes the Governor to enter into Tri-partite Agreements with FANNIE MAE and mortgage finance lenders on the terms and conditions set forth in the attached TRI-PARTITE AGREEMENT [TEXT OF ORDINANCE]

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